



Billing Code: 4410-14-P

## **DEPARTMENT OF JUSTICE**

### **Justice for United States Victims of State Sponsored Terrorism Act**

**AGENCY:** Department of Justice.

**ACTION:** Notice.

**SUMMARY:** The Justice for United States Victims of State Sponsored Terrorism Act (“USVSST Act” or “Act”), part of the Consolidated Appropriations Act of 2016, establishes a fund, overseen by a Special Master, to provide compensation to certain eligible individuals who were injured in acts of state sponsored terrorism. The fund will award payment to victims of acts of international terrorism based on final judgments obtained in U.S. district courts against a state sponsor of terrorism, as well as to hostages held at the United States Embassy in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, and their spouses and children. This Notice describes the eligibility requirements and provides procedures for the submission and consideration of applications to the fund.

**DATES:** This Notice is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FUTHER INFORMATION CONTACT:** The Special Master, United States Victims of State Sponsored Terrorism Fund, or the Chief, Program Management and Training Unit, Asset Forfeiture and Money Laundering Section, Criminal Division,

Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, telephone (202) 353-2046.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

Pursuant to Division O, section 404 of the Consolidated Appropriations Act of 2016, Public Law 114-113 (“Justice for United States Victims of State Sponsored Terrorism Act”), codified at 42 U.S.C. 10609, the U.S. Victims of State Sponsored Terrorism Fund (“Fund”) was established to provide compensation to individuals who were injured as a result of an international act of terrorism by a state sponsor of terrorism. Under 42 U.S.C. 10609(c), an eligible claimant is (1) a U.S. person, as defined in 42 U.S.C. 10609(j)(8), with a final judgment issued by a U.S. district court under state or federal law against a state sponsor of terrorism and arising from an act of international terrorism, for which the foreign state was found not immune under provisions of the Foreign Sovereign Immunities Act, codified at 28 U.S.C. 1605A or 1605(a)(7) (as such section was in effect on January 27, 2008); (2) a U.S. person, as defined in 42 U.S.C. 10609(j)(8), who was taken and held hostage from the United States Embassy in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, or the spouse and child of that U.S. person at that time, and who is also identified as a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia; or (3) the personal representative of a deceased individual in either of those two categories.

Following his appointment by the Attorney General, Kenneth Feinberg entered on duty as the Special Master to administer the Fund on May 17, 2016. The Special Master will consider applications, make determinations of eligibility, and calculate payment amounts in accordance with the Act. The determinations of the Special Master are final and not reviewable by any court.

Claims based on eligibility for those persons with final judgments dated before [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and those who qualify as an Iran hostage, or spouse or child thereof, must be filed on or before [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Claims based on eligibility for those persons who obtain final judgments on or after [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] must be filed within 90 days of the date of obtaining those judgments. Payments from the Fund are made by the U.S. government, which in turn obtains the right of subrogation to each award. Pursuant to 42 U.S.C. 10609(d)(2), the Special Master shall authorize all initial payments to satisfy eligible claims not later than one year after the date of the enactment of the Act.

The Special Master is issuing this Notice pursuant to section 10609(b)(2) of the Act, which provides that the Special Master shall publish a notice specifying the procedures necessary for United States persons to apply and establish eligibility for payment, including procedures by which eligible United States persons may apply by and through their attorney. The notice is procedural in nature, specifying how to apply for compensation and merely restating the eligibility requirements in the Act; it does not create new rights or impose obligations independent of the statute. It also notes certain instances where the Special Master has discretion about implementing the procedures.

This Notice does not provide a complete overview of the Fund. More detailed information regarding the Fund, including answers to frequently asked questions (“FAQs”), is available on the U.S. Victims of State Sponsored Terrorism Fund website at [www.usvsst.com](http://www.usvsst.com). Furthermore, the Special Master cannot anticipate all of the issues that may arise over the lifetime of the Fund and that he may have to resolve in the course of making determinations on individual claims.

### **Administrative Certifications**

Pursuant to section 404(b)(2)(A) of Division O of Public Law 114-113, the Consolidated Appropriations Act of 2016, this Notice is exempt from the notice and comment requirements of 5 U.S.C. 553, and it is effective upon issuance. Although not required, in an effort to provide transparency, the Special Master posted a discussion draft of procedures and FAQs on the [www.usvsst.com](http://www.usvsst.com) website and invited input from the public from June 17, 2016 through June 29, 2016. Further, on June 24, 2016 and June 29, 2016, the Special Master hosted public conference calls to provide potential claimants, their lawyers, and any other parties with the opportunity to ask questions concerning the Act, application procedures, and FAQs. The Special Master also met with victims’ advocates. The Special Master considered all the input in drafting the Notice and will accept public input made following publication if any adjustments or clarifications are necessary and appropriate.

Because the Special Master is not required to publish a general notice of proposed rulemaking, this Notice is not subject to the provisions of the Regulatory Flexibility Act, as provided in 5 U.S.C. 601(2) and 604(a). This Notice meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, “Civil Justice Reform.”

This Notice has been drafted and reviewed in accordance with Executive Order 12866, “Regulatory Planning and Review” section 1(b), The Principles of Regulation, and in accordance with Executive Order 13563, “Improving Regulation and Regulatory Review” section 1, General Principles of Regulation. The Special Master has determined that this Notice is not a “significant regulatory action” under Executive Order 12866, Regulatory Planning and Review, section 3(f), and accordingly this Notice has not been reviewed by the Office of Management and Budget.

This Notice, which sets forth procedures for submission and processing of claims under the Fund, pertains to matters of agency practice and procedure and does not substantially affect the rights or obligations of non-agency parties. Accordingly, it is not a “rule” as that term is used by the Congressional Review Act, 5 U.S.C. 804(3)(C), and the reporting requirement of 5 U.S.C. 801 does not apply.

#### **Paperwork Reduction Act of 1995**

This Notice implements 42 U.S.C. 10609, which established the Fund. In order to evaluate claims and provide payment on eligible claims, the Special Master must collect certain information from (1) a U.S. person, as defined in 42 U.S.C. 10609(j)(8), with a final judgment issued by a U.S. district court under state or federal law against a state sponsor of terrorism and arising from an act of international terrorism, for which the foreign state was found not immune under provisions of the Foreign Sovereign Immunities Act, codified at 28 U.S.C. 1605A or 1605(a)(7) (as such section was in effect on January 27, 2008); (2) a U.S. person, as defined in 42 U.S.C. 10609(j)(8), who was taken and held hostage from the United States Embassy in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, or the spouse and child of

that U.S. person at that time, and who is also identified as a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia; or (3) the personal representative of a deceased individual in either of those two categories.

Accordingly, the Department of Justice, Criminal Division, has submitted an information collection request to the Office of Management and Budget for review and clearance in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

#### **Privacy Act of 1974**

Elsewhere in the *Federal Register*, the Department of Justice, Criminal Division, has published a notice of a new Privacy Act system of records entitled “U.S. Victims of State Sponsored Terrorism Fund (USVSSTF) File System”, JUSTICE/CRM-029. By law, a notice addressing certain administrative matters for the Fund was to be issued within the 60-day period after the Special Master’s appointment as established by Congress. In compliance with that time period, the Privacy Act system of records notice published concurrently in the *Federal Register* will become effective upon publication, subject to a 30-day comment period for the routine uses claimed in the notice. In the interim, disclosures necessary to process applications are being made, and will be made, only with the prior written consent of applicants or as otherwise authorized under 5 U.S.C. 552a(b).

**PROCEDURES FOR APPLYING FOR PAYMENT FROM THE UNITED STATES VICTIMS OF STATE SPONSORED TERRORISM FUND.**

**PART I. APPLICANT INFORMATION.**

Application forms will be available online at *www.usvsst.com*; by sending a request in writing to the U.S. Victims of State Sponsored Terrorism Fund, c/o GCG, P.O. Box 10229, Dublin, OH 43017-5899; by email to *info@usvsst.com*; by calling (855) 720-6966; or by calling collect at +1 (614) 553-1013 if outside the United States.

Each applicant must submit his or her own application and provide the following information:

1. The applicant's name, address, telephone number, electronic mail address, and, if available, Social Security Number or Tax Identification Number and facsimile number.
2. If the applicant is represented by counsel, name(s), address(es), telephone number(s), electronic mail address(es), facsimile number(s) of counsel, and documentation of counsel's authority to represent the applicant.
3. If the applicant is the estate of a deceased individual, the name, address, telephone number, electronic mail address, and facsimile number, if available, for the Personal Representative of the decedent.

The Special Master will not publish the names of the individuals who have filed for compensation under the Fund and the names of the decedents for whom compensation is sought under the Fund.

**PART II. SUBMISSION OF THE APPLICATION.**

Applications may be submitted online at *www.usvsst.com*; by mail to the U.S. Victims of State Sponsored Terrorism Fund, c/o GCG, P.O. Box 10299, Dublin, OH 43017-5899; by overnight mail to the U.S. Victims of State Sponsored Terrorism Fund, c/o GCG, 5151 Blazer Parkway, Suite A, Dublin, OH 43017; by email at *info@usvsst.com*; or toll-free by facsimile for domestic callers at (855) 409-7130 and for international callers at (614) 553-1426. If an applicant is represented by counsel, his or her application may be submitted through counsel, and counsel must submit a separate application on behalf of each represented individual. Only one application may be submitted for each claim.

### **PART III. GENERAL ELIGIBILITY.**

The applicant has the burden of establishing eligibility for payment under the Act. The statutory definitions at 42 U.S.C. 10609(j) are fully incorporated herein.

The Act requires that in order to demonstrate eligibility for payment, an applicant must:

1. Be a U.S. person who holds a final judgment issued by a United States district court under State or Federal law against a state sponsor of terrorism, awarding the applicant compensatory damages on a claim(s) brought by the applicant arising from acts of international terrorism for which the foreign state, or instrumentality of the foreign state, was found not immune from the jurisdiction of the courts of the United States under section 1605A or section 1605(a)(7) (as such section was in effect on January 27, 2008) of title 28, United States Code; or
2. Be a U.S. person who was taken and held hostage from the United States Embassy in Tehran, Iran, during the period beginning November 4, 1979, and



ending January 20, 1981, if such person is identified as a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia; or

3. Be the spouse or child of a former hostage described in Part III.2 and identified as a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia; or
4. Be the Personal Representative of deceased individual(s) described in Part III.1 to Part III.3.

In no event shall an individual who is criminally culpable for an act of international terrorism receive any compensation from the Fund, either directly or indirectly on behalf of a victim. *See* 42 U.S.C. 10609(h).

#### **PART IV. SUPPORTING DOCUMENTATION.**

An applicant must submit the following supporting documents, as applicable. Any requests for waiver of a documentation requirement or an extension of time in which to submit a particular document must be submitted to the Special Master in writing at least 20 business days prior to the application deadline set forth in Part VIII below. Decisions to waive a documentation requirement or to extend the time to submit a particular document are wholly within the discretion of the Special Master. Failure to submit all required documentation by the application deadline may result in delay of the adjudication of or denial of the application.

1. An applicant who seeks to establish eligibility for payment on the basis of a final judgment described in Part III.1 above must submit:
  - a. A copy of the final judgment; and

- b. A list identifying any immediate family member(s) of the applicant who is/are also identified in the final judgment described in Part III.1 above.
- 2. An applicant who seeks to establish eligibility for payment on the basis described in Part III.2 above must submit:
  - a. If seeking payment as a person who was held hostage in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, verification of the date on which he or she was taken hostage from the United States Embassy in Tehran, Iran, and the date on which he or she was released, as well as verification that he or she is a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia.
  - b. If seeking payment as the spouse of a person who was held hostage in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, a copy of a marriage certificate showing the date of marriage and an affirmation that the marriage continued through January 20, 1981, as well as verification that he or she is a member of the proposed class in case number 1:00-CV-03110 (EGS) of the United States District Court for the District of Columbia.
  - c. If seeking payment as the child of a person who was held hostage in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981, a copy of a birth certificate or adoption decree showing a date of birth or adoption prior to January 20, 1981, as well as verification that he or she is a member of the proposed class in case number 1:00-CV-

03110 (EGS) of the United States District Court for the District of Columbia.

3. Personal Representatives must show sufficient evidence of their authority to represent the estate of a decedent by submitting copies of relevant legal documentation, such as court orders; letters testamentary or similar documentation; proof of the purported Personal Representative's relationship to the decedent; and copies of wills, trusts, or other testamentary documents.
4. Any other information that the Special Master deems necessary to determine the applicant's eligibility.

#### **PART V. COLLATERAL SOURCES INFORMATION.**

The Act requires that an applicant identify compensation from any source other than this Fund that the applicant, or the applicant's beneficiaries, has/have received or is/are entitled or scheduled to receive as a result of the act of international terrorism that gave rise to his or her final judgment. The applicant shall provide information and documentation regarding the amount, nature, and source of any payment received or entitled or scheduled to receive, and must update that information throughout the period of the Fund.

#### **PART VI. SPECIAL PROCEDURES FOR JUDGMENT CREDITORS IN**

***Peterson v. Iran* AND FOR SETTTLING JUDGMENT CREDITORS IN *In Re 650 Fifth Avenue & Related Properties*.**

1. ***Election to Participate in Fund.*** By [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], a United States person who is a judgment creditor in the proceedings captioned *Peterson v. Islamic*

*Republic of Iran*, No. 10 Civ. 4518 (S.D.N.Y.), or a Settling Judgment Creditor as identified in the order dated May 27, 2014, in the proceedings captioned *In re 650 Fifth Avenue & Related Properties*, No. 08 Civ. 10934 (S.D.N.Y. filed Dec. 17, 2008), shall notify the Special Master in writing of his or her election to participate in the Fund, and shall acknowledge in writing that, by so electing, he or she irrevocably assigns to the Fund all rights, title, and interest in such person's claims to the assets at issue in the identified proceedings.

2. ***Applications for Conditional Payment.*** A United States person who is a judgment creditor or a Settling Judgment Creditor in the proceedings identified in Part VI.1 who does not elect to participate in the Fund may, notwithstanding such failure to elect, submit an application for conditional payment from the Fund, subject to the limitations and exceptions set forth in the Act and the application requirements set forth in this Notice.

## **PART VII. PROCEDURES FOR PERSONAL REPRESENTATIVES.**

1. ***In general.*** For any deceased applicant, the Personal Representative shall be:
  - a. An individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the deceased applicant's will or estate; or
  - b. In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Personal Representative for purposes of compensation by the Fund is the person

named by the deceased applicant in his or her will as the executor or administrator of the deceased applicant's estate; or

- c. In the event no will exists, the Personal Representative for purposes of compensation by the Fund is the first person in the line of succession established by the laws of the deceased applicant's domicile governing intestacy or, in limited circumstances, the Special Master may, at his discretion, determine the Personal Representative for purposes of compensation by the Fund.

2. ***Notice to beneficiaries.***

- a. Any purported Personal Representative must, before filing a claim, provide written notice of the claim to the immediate family of the decedent; to the executor, administrator, and beneficiaries of the decedent's will; and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent.
- b. Personal delivery or transmission by certified mail, return receipt requested, shall be deemed sufficient notice under this Part. The purported Personal Representative must certify that such notice (or other notice that the Special Master deems appropriate) has been given.

3. ***Objections to Personal Representatives.*** Objections to the authority of an individual to file as the Personal Representative of a decedent may be filed with the Special Master by parties who assert a financial interest in the award up to 30 days following receipt of notice by the Personal Representative under Part VII.2.

If timely filed, such objections shall be treated as evidence of a “dispute” under section (4) of this Part.

4. ***Disputes as to Identity.*** The Special Master will not, and shall not be required to, arbitrate, litigate, or otherwise resolve any dispute as to the identity of the Personal Representative. In the event of a dispute over the appropriate Personal Representative, the Special Master may suspend adjudication of the claim or, if sufficient information is provided, calculate the appropriate award and authorize payment, but withhold any payment until the dispute is resolved either by agreement of the disputing parties or by a court of competent jurisdiction. Alternatively, the disputing parties may agree in writing to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while the disputing parties work to settle their dispute.
5. ***Foreign Claims.*** In the case of claims brought by a foreign citizen on behalf of a deceased applicant, the Special Master may alter the requirements for documentation set forth in Part IV.3 and Part VII.

#### **PART VIII. APPLICATION DEADLINES.**

1. Applications based on a judgment described in Part III.1 above that was a final judgment before the date of publication of this Notice and applications based on the statement described in Part III.2 to Part III.4 above must be submitted by [INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN FEDERAL REGISTER].

2. Applications based on a judgment described in Part III.1 that was final on or after the date of publication of this Notice must be submitted not later than 90 days after the date of obtaining a final judgment.
3. For good cause shown, the Special Master may grant a reasonable extension of a deadline under this Part. Any request for such an extension must be made in writing and must describe the circumstances that the applicant believes constitute good cause.
4. The Special Master shall determine the timeliness of all claims.

#### **PART IX. AWARD OF COMPENSATION TO INFORMERS.**

If an applicant is seeking additional compensation as an informer, as described in 42 U.S.C. 10609(g)(2)(a), the applicant must identify, and notify the Attorney General in writing by contacting the Chief, Asset Forfeiture and Money Laundering Section, Criminal Division, Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001, of funds or property of a state sponsor of terrorism, or held by a third party on behalf of or subject to the control of that state sponsor of terrorism. *See* 42 U.S.C. 10609(g)(1).

#### **PART X. REQUEST FOR A HEARING.**

An applicant may request a hearing regarding the Special Master's denial of the claim in whole or in part no later than 30 days after receipt of the Special Master's written decision.

1. Hearings shall be before the Special Master or his designee. All hearings will be closed to the public.

2. Based on the circumstances of the claim, the Special Master or his designee shall determine the time, location, duration, and procedures for the hearing.
3. The Special Master shall notify the applicant in writing of his final decision affirming or amending the original decision within 90 days of the hearing, but need not create or provide any written record of the deliberations that resulted in that determination. There shall be no further review or appeal of the Special Master's determination. *See* 42 U.S.C. 10609(b)(3)(B).

## **PART XI. SIGNATURES AND CERTIFICATIONS.**

An application will be deemed submitted when it is submitted online at [www.usvsst.com](http://www.usvsst.com), emailed to [info@usvsst.com](mailto:info@usvsst.com), faxed toll-free for domestic callers at (855) 409-7130 and for international callers at (614) 553-1426, or if mailed or overnight mailed, by the postmark date. By submitting the application, the applicant (or if submitted through counsel, both applicant and counsel) acknowledges and certifies as to each of the following:

1. ***Veracity of Application.*** The applicant certifies, under oath, subject to penalty of perjury or in a manner that meets the requirements of 28 U.S.C. 1746, that the information provided in the application and any documents submitted in support of the claim are true and accurate to the best of the applicant's knowledge, and the applicant agrees that any payment made by the Fund is expressly conditioned upon the truthfulness and accuracy of the information and documentation submitted in support of the claim. Where an applicant is represented by a third party, such as an applicant's legal guardian, the Personal Representative of the



deceased applicant's estate, or other personal legally authorized to act for the applicant, these persons must have authority to certify on behalf of the applicant.

2. ***Potential Criminal Penalties.*** The applicant understands that false statements or claims made in connection with the application may result in fines, imprisonment and/or any other remedy available by law to the Federal Government, including as provided in 18 U.S.C. 1001, and that claims that appear to be potentially fraudulent or to contain false information will be forwarded to federal, state, and local law enforcement authorities for possible investigation and prosecution.
3. ***Limitation on Attorneys' Fees.*** If an applicant is represented by counsel, no attorney shall charge, receive, or collect, and the Special Master will not approve, any payment of fees and costs that in the aggregate exceeds 25 percent of any payment made under the Act on such claim.
4. ***Subrogation of Rights.*** If the applicant receives payment under the Act, the applicant agrees and accepts that the United States shall be subrogated to the rights of the applicant (and any of his heirs, successors, or assigns) to the extent and in the amount of such payment, but that, to the extent amounts of damages remain unpaid and outstanding to the applicant following any payments made under this Act, each applicant shall retain that applicant's creditor rights in any unpaid or outstanding amounts of the judgment, including any prejudgment or post-judgment interest, or punitive damages, awarded by a United States district court pursuant to a judgment.

5. ***Conditional Payment.*** If the applicant is seeking a conditional payment pursuant to Part VI above, the applicant understands that, notwithstanding the applicant's eligibility for payment and the deadline for initial payments set forth in the Act, the Special Master shall allocate but withhold payment to such applicant until such time as an adverse final judgment is entered in both of the proceedings identified in Part VI.

Dated: July 8, 2016.

Kenneth Feinberg  
Special Master

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